

Standards Assessment Sub-Committee

MINUTES OF THE STANDARDS ASSESSMENT SUB-COMMITTEE MEETING HELD ON 19 NOVEMBER 2020 AT .

Present:

Cllr Ruth Hopkinson (Chairman), Cllr Ernie Clark (Vice-Chairman),
Cllr Richard Britton, Cllr Fred Westmoreland, Cllr Stuart Wheeler, Mr Philip Gill MBE
(non-voting) and Mr Michael Lockhart (non-voting)

Also Present:

Caroline Baynes (Independent Person, COC131110), Tony Drew (Independent
Person, COC131452, COC130429, COC130430, COC130432, COC130433), Frank
Cain (Head of Legal Services), Kieran Elliott (Senior Democratic Services Officer),
Cllr Andrew Davis (Subject Member COC131110), Fiona Fox (Complainant
COC131110)

36 **Apologies**

There were no apologies.

37 **Minutes of the Previous Meeting**

The minutes of the meeting held on 21 October 2020 were presented for
consideration, and it was,

Resolved:

To approve and sign the minutes as a true and correct record.

38 **Declarations of Interest**

Councillors Ruth Hopkinson, Ernie Clark, Richard Britton, Stuart Wheeler and
Fred Westmoreland noted that they were acquainted with the Subject Member
for complaint COC131110, the complainant for complaint COC131452 and the
Subject Member for complaint COC 130433, by virtue of them also being
Wiltshire Councillors.

Councillor Hopkinson further declared that she was known to the parties for
complaints COC131452, COC130429, COC130430, COC130432 and 130433.

Councillor Britton further declared that he was a member of the same political
group as the Subject Member for Complaint COC131110.

39 **Meeting Procedure and Assessment Criteria**

The meeting procedure and assessment criteria for the meeting were noted.

40 **Exclusion of the Public**

It was,

Resolved:

To agree that in accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public from the meeting for the business specified in Minute Numbers 41-46, because it is likely that if members of the public were present there would be disclosure to them of exempt information as defined in Paragraph 1 of Part I of Schedule 12A to the Act and the public interest in withholding the information outweighs the public interest in disclosing the information to the public.

Paragraph 1 - information relating to an individual

41 **Assessment of Complaint: COC131110**

Preamble

A complaint was received from Fiona Fox (The Complainant) regarding the conduct of Councillor Andrew Davis (The Subject Member), a Member of Warminster Town Council. It was alleged that the Subject Member had breached the Code of Conduct through unprofessional demeaning, undermining and inappropriate behaviour at a public event in May 2019. The Complainant is the town clerk of Warminster Town Council.

Assessment

The Sub-Committee were satisfied that the initial tests of the assessment criteria had been met, including that the Subject Member was and remains a member of Warminster Town Council, and that a copy of the relevant Code of Conduct was provided for the assessment.

The Sub-Committee considered that it was unclear whether the Subject Member had been acting in their capacity as a Member of Warminster Town Council at the event at which the incident giving rise to the complaint occurred, or might be perceived to have been acting in that capacity particularly through the specific interactions with the Complainant, who is the clerk to the Town Council. Notwithstanding this, for the avoidance of doubt, the Sub-Committee progressed with the assessment.

The Sub-Committee therefore had to decide whether the alleged behaviour would, if proven, amount to a breach of that Code of Conduct. If the Sub-Committee concluded that the alleged behaviour would amount to a breach, then it would have to go on to decide whether it was appropriate under the assessment criteria to refer the matter for investigation.

In reaching its decision, the Sub-Committee took into account the original complaint and supporting information, the response of the Subject Member and supporting information, and the report of the Monitoring Officer.

The Sub-Committee also considered verbal statements from both the Complainant and the Subject Member provided at the Assessment Sub-Committee meeting on 19 November 2020.

Conclusion

The complaint involved a discussion and interaction between the Subject Member and the Complainant at a local event, which by both accounts became heated and confrontational. The parties disagreed on the nature and tone of various elements of the confrontation and who was responsible, however neither disputed that a heated confrontation had occurred.

The Subject Member is both a Warminster Town Councillor and Wiltshire Councillor, and the Complainant is the clerk to the Town Council, and the context of that relationship on any alleged incident was of relevance.

The relevant Code of Conduct did not contain specific references to disrespect or bullying, however, if the Subject Member was acting in their capacity as a Member, it would need to be considered if the alleged behaviour, stated by the Complainant to be 'unprofessional, demeaning, undermining and totally inappropriate', if proven, would be a breach of the Code through a failure to promote high standards of conduct or uphold the principles within the Code.

It was also noted that the complaint was submitted by the Complainant to the Town Council within 20 days of the incident in May 2019, but that due to errors in process by the Town Council it was not provided to Wiltshire Council to assess and determine until August 2020. It was also noted that the Complainant had been on long term sickness for an extended period sometime after submission of the complaint to the Town Council.

In the first instance, the Sub-Committee did not consider that mediation would be appropriate in the circumstances given the stated positions of the parties, and noted that whatever the outcome of the complaint both would need to continue to work together through the Town Council.

The Sub-Committee noted that the confrontation giving rise to complaint had occurred at a public event which, in the circumstances, would mean both parties were under an amount of pressure. The alleged behaviour, if proven, would not reflect well on the Subject Member even in that circumstance, though whether they were attending and acting in an official capacity was relevant when considering if that behaviour, even if causing distress to the Complainant, was capable of rising to the level of a breach of the Code.

Although arising from a procedural error by the Town Council, the delay in consideration of the complaint was also of relevance. Regardless of responsibility for that error, the Sub-Committee noted that the considerable time since the incident giving rise to complaint could make it difficult for any investigation to establish the facts from and beyond the contradictory contemporaneous accounts.

In combination with the uncertainty around the capacity in which the Subject Member had been acting, and the delays that had occurred that would make establishing the facts difficult, the Sub-Committee therefore determined that whilst the alleged behaviour of the Subject Member, if proven, would not be appropriate, it would not be in the public interest for there to be an investigation.

It was therefore resolved,

Resolved:

In accordance with the approved arrangements for resolving standards complaints adopted by Council on 9 July 2019, which came into effect on 1 January 2020 and after hearing from the Independent Person, the Assessment Sub-Committee determined to take no further action in respect of the complaint.

42 **Assessment of Complaint: COC131452**

In considering complaint COC131452 the Sub-Committee were satisfied that the initial tests of the assessment criteria had been met, including that the member was and remains a member of the relevant Council, and that a copy of the relevant Code of Conduct was provided for the assessment.

The Sub-Committee therefore had to decide whether the alleged behaviour would, if proven, amount to a breach of that Code of Conduct. Further, if it was felt it would be a breach, whether it was still appropriate under the assessment criteria to refer the matter for investigation.

In reaching its decision, the Sub-Committee took into account the original complaint and supporting information, the response of the Subject Member, and the report of the Monitoring Officer. The Sub-Committee also received written statements from the Complainant and Subject Member. Neither party was in attendance.

After discussion, it was,

Resolved:

In accordance with the approved arrangements for resolving standards complaints adopted by Council on 9 July 2019, which came into effect on 1 January 2020 and after hearing from the Independent Person, the Assessment Sub-Committee determined to refer the complaint for investigation.

43 **Assessment of Complaint: COC130429**

Preamble

A complaint was received from Patsy Clover (The Complainant) regarding the conduct of Councillor Adrienne Westbrook (The Subject Member) of Melksham Town Council. It was alleged the Subject Member had breached the Code of Conduct by failing to have regard to the Nolan principles, specifically integrity,

objectivity, accountability, openness, honesty and leadership, and failed to be open as possible about her decisions and actions, and failed to give reasons for those decisions and actions. This was alleged in respect of the suspension the Complainant from her role with the Town Council.

Assessment

The Sub-Committee were satisfied that the initial tests of the assessment criteria had been met, including that the Subject Member was and remains a member of Melksham Town Council, that a copy of the relevant Code of Conduct was provided for the assessment, and that they were acting in their capacity as a Member during the various alleged actions.

The Sub-Committee therefore had to decide whether the alleged behaviour would, if proven, amount to a breach of that Code of Conduct. If the Sub-Committee concluded that the alleged behaviour would amount to a breach, then it would have to go on to decide whether it was appropriate under the assessment criteria to refer the matter for investigation.

In reaching its decision, the Sub-Committee took into account the original complaint and supporting information, the response of the Subject Member, and the report of the Monitoring Officer.

The Sub-Committee also considered written statements from both the Complainant and the Subject Member provided at the Assessment Sub-Committee meeting on 19 November 2020. This included receipt of additional documentation under Paragraph 5.6 of the procedures for the meeting, provided by the Complainant. Neither party was in attendance.

The complaint was linked with complaints COC130430, COC130432 and COC130433 involving other Members of the Town Council relating to the same set of circumstances.

Conclusion

The complaint involved a series of actions of four Members, including the Subject Member, which it was alleged were not in accordance with council procedures, resulting in the unlawful suspension of the Complainant from her role as Deputy Clerk among other decisions, which were outside the powers of the Subject Member, and in so doing and through other actions around the decision, breached the Code by not promoting or maintaining high standards of conduct.

The Subject Member contended that they acted in accordance with procedure following advice during a difficult situation.

The Sub-Committee noted that the allegations involved breaches of the standing orders of the Town Council. It noted that whilst a breach of those standing orders was not in of itself a breach of a Code of Conduct, it had to consider if the specific allegations of breaches of those orders in the alleged circumstances could, if proven, rise to the level of such a breach under the general principle of not promoting high standards of conduct.

From the submissions it was apparent there had been a period of organisational difficulty for the Town Council where both the clerk and deputy clerk were suspended under grievance procedures. The Subject Member was one of a number of Members subject to complaint for the same incident, due to varying alleged involvement.

The Sub-Committee was not persuaded, on the basis of the submissions, that the alleged behaviour, and alleged breaches of standing orders, in this instance, if proven, were capable of rising to the level of a breach of the Code of Conduct.

In particular, the Sub-Committee noted that if there were errors or unlawful actions taken by the Council by virtue of the Subject Member's actions in conjunction with the other Members subject to complaint, the grievance and unfair dismissal procedures were a more appropriate place for those decisions by the Council to be explored and determined. It did not consider any of the further allegations to rise to the level capable of being a breach.

It was therefore resolved to take no further action in respect of the complaint and did not consider any of the other related complaints against other Members raised particular issues or allegations which would result in a different determination.

Accordingly, it was,

Resolved:

In accordance with the approved arrangements for resolving standards complaints adopted by Council on 9 July 2019, which came into effect on 1 January 2020 and after hearing from the Independent Person, the Assessment Sub-Committee determined to take no further action in respect of the complaint.

44 **Assessment of Complaint: COC130430**

Preamble

A complaint was received from Patsy Clover (The Complainant) regarding the conduct of Councillor Geoff Mitcham (The Subject Member) of Melksham Town Council. It was alleged the Subject Member had breached the Code of Conduct by failing to have regard to the Nolan principles, specifically integrity, objectivity, accountability, openness, honesty and leadership, and failed to be open as possible about his decisions and actions, and failed to give reasons for those decisions and actions. This was alleged in respect of the suspension the Complainant from her role with the Town Council.

Assessment

The Sub-Committee were satisfied that the initial tests of the assessment criteria had been met, including that the Subject Member was and remains a member of Melksham Town Council, that a copy of the relevant Code of

Conduct was provided for the assessment, and that they were acting in their capacity as a Member during the various alleged actions.

The Sub-Committee therefore had to decide whether the alleged behaviour would, if proven, amount to a breach of that Code of Conduct. If the Sub-Committee concluded that the alleged behaviour would amount to a breach, then it would have to go on to decide whether it was appropriate under the assessment criteria to refer the matter for investigation.

In reaching its decision, the Sub-Committee took into account the original complaint and supporting information, the response of the Subject Member, and the report of the Monitoring Officer.

The Sub-Committee also considered written statements from both the Complainant and the Subject Member provided at the Assessment Sub-Committee meeting on 19 November 2020. This included receipt of additional documentation under Paragraph 5.6 of the procedures for the meeting, provided by the Complainant. Neither party was in attendance.

The complaint was linked with complaints COC130429, COC130432 and COC130433 involving other Members of the Town Council relating to the same set of circumstances.

Conclusion

The complaint involved a series of actions of four Members, including the Subject Member, which it was alleged were not in accordance with council procedures, resulting in the unlawful suspension of the Complainant from her role as Deputy Clerk among other decisions, which were outside the powers of the Subject Member, and in so doing and through other actions around the decision, breached the Code by not promoting or maintaining high standards of conduct.

The Subject Member contended that they acted in accordance with procedure following advice during a difficult situation.

The Sub-Committee noted that the allegations involved breaches of the standing orders of the Town Council. It noted that whilst a breach of those standing orders was not in of itself a breach of a Code of Conduct, it had to consider if the specific allegations of breaches of those orders in the alleged circumstances could, if proven, rise to the level of such a breach under the general principle of not promoting high standards of conduct.

From the submissions it was apparent there had been a period of organisational difficulty for the Town Council where both the clerk and deputy clerk were suspended under grievance procedures. The Subject Member was one of a number of Members subject to complaint for the same incident, due to varying alleged involvement.

The Sub-Committee was not persuaded, on the basis of the submissions, that the alleged behaviour, and alleged breaches of standing orders, in this instance, if proven, were capable of rising to the level of a breach of the Code of Conduct.

In particular, the Sub-Committee noted that if there were errors or unlawful actions taken by the Council by virtue of the Subject Member's actions in conjunction with the other Members subject to complaint, the grievance and unfair dismissal procedures were a more appropriate place for those decisions by the Council to be explored and determined. It did not consider any of the further allegations to rise to the level capable of being a breach.

It was therefore resolved to take no further action in respect of the complaint and did not consider any of the other related complaints against other Members raised particular issues or allegations which would result in a different determination.

Accordingly, it was,

Resolved:

In accordance with the approved arrangements for resolving standards complaints adopted by Council on 9 July 2019, which came into effect on 1 January 2020 and after hearing from the Independent Person, the Assessment Sub-Committee determined to take no further action in respect of the complaint.

45 **Assessment of Complaint: COC130432**

Preamble

A complaint was received from Patsy Clover (The Complainant) regarding the conduct of Councillor Vanessa Fiorelli (The Subject Member) of Melksham Town Council. It was alleged the Subject Member had breached the Code of Conduct by failing to have regard to the Nolan principles, specifically integrity, objectivity, accountability, openness, honesty and leadership, and failed to be open as possible about her decisions and actions, and failed to give reasons for those decisions and actions. This was alleged in respect of the suspension the Complainant from her role with the Town Council.

Assessment

The Sub-Committee were satisfied that the initial tests of the assessment criteria had been met, including that the Subject Member was and remains a member of Melksham Town Council, that a copy of the relevant Code of Conduct was provided for the assessment, and that they were acting in their capacity as a Member during the various alleged actions.

The Sub-Committee therefore had to decide whether the alleged behaviour would, if proven, amount to a breach of that Code of Conduct. If the Sub-Committee concluded that the alleged behaviour would amount to a breach, then it would have to go on to decide whether it was appropriate under the assessment criteria to refer the matter for investigation.

In reaching its decision, the Sub-Committee took into account the original complaint and supporting information, the response of the Subject Member, and the report of the Monitoring Officer.

The Sub-Committee also considered written statements from both the Complainant and the Subject Member provided at the Assessment Sub-Committee meeting on 19 November 2020. This included receipt of additional documentation under Paragraph 5.6 of the procedures for the meeting, provided by the Complainant. Neither party was in attendance.

The complaint was linked with complaints COC130429, COC130430 and COC130433 involving other Members of the Town Council relating to the same set of circumstances.

Conclusion

The complaint involved a series of actions of four Members, including the Subject Member, which it was alleged were not in accordance with council procedures, resulting in the unlawful suspension of the Complainant from her role as Deputy Clerk among other decisions, which were outside the powers of the Subject Member, and in so doing and through other actions around the decision, breached the Code by not promoting or maintaining high standards of conduct.

The Subject Member contended that they acted in accordance with procedure following advice during a difficult situation.

The Sub-Committee noted that the allegations involved breaches of the standing orders of the Town Council. It noted that whilst a breach of those standing orders was not in of itself a breach of a Code of Conduct, it had to consider if the specific allegations of breaches of those orders in the alleged circumstances could, if proven, rise to the level of such a breach under the general principle of not promoting high standards of conduct.

From the submissions it was apparent there had been a period of organisational difficulty for the Town Council where both the clerk and deputy clerk were suspended under grievance procedures. The Subject Member was one of a number of Members subject to complaint for the same incident, due to varying alleged involvement.

The Sub-Committee was not persuaded, on the basis of the submissions, that the alleged behaviour, and alleged breaches of standing orders, in this instance, if proven, were capable of rising to the level of a breach of the Code of Conduct.

In particular, the Sub-Committee noted that if there were errors or unlawful actions taken by the Council by virtue of the Subject Member's actions in conjunction with the other Members subject to complaint, the grievance and unfair dismissal procedures were a more appropriate place for those decisions by the Council to be explored and determined. It did not consider any of the further allegations to rise to the level capable of being a breach.

It was therefore resolved to take no further action in respect of the complaint and did not consider any of the other related complaints against other Members raised particular issues or allegations which would result in a different determination.

Accordingly, it was,

Resolved:

In accordance with the approved arrangements for resolving standards complaints adopted by Council on 9 July 2019, which came into effect on 1 January 2020 and after hearing from the Independent Person, the Assessment Sub-Committee determined to take no further action in respect of the complaint.

46 **Assessment of Complaint: COC130433**

Preamble

A complaint was received from Patsy Clover (The Complainant) regarding the conduct of Councillor Pat Aves (The Subject Member) of Melksham Town Council. It was alleged the Subject Member had breached the Code of Conduct by failing to have regard to the Nolan principles, specifically integrity, objectivity, accountability, openness, honesty and leadership, and failed to be open as possible about her decisions and actions, and failed to give reasons for those decisions and actions. This was alleged in respect of the suspension the Complainant from her role with the Town Council.

Assessment

The Sub-Committee were satisfied that the initial tests of the assessment criteria had been met, including that the Subject Member was and remains a member of Melksham Town Council, that a copy of the relevant Code of Conduct was provided for the assessment, and that they were acting in their capacity as a Member during the various alleged actions.

The Sub-Committee therefore had to decide whether the alleged behaviour would, if proven, amount to a breach of that Code of Conduct. If the Sub-Committee concluded that the alleged behaviour would amount to a breach, then it would have to go on to decide whether it was appropriate under the assessment criteria to refer the matter for investigation.

In reaching its decision, the Sub-Committee took into account the original complaint and supporting information, the response of the Subject Member, and the report of the Monitoring Officer.

The Sub-Committee also considered a written statement from the Complainant at the Assessment Sub-Committee meeting on 19 November 2020. This included receipt of additional documentation under Paragraph 5.6 of the procedures for the meeting, provided by the Complainant. Neither party was in attendance.

The complaint was linked with complaints COC130429, COC130430 and COC130432 involving other Members of the Town Council relating to the same set of circumstances.

Conclusion

The complaint involved a series of actions of four Members, including the Subject Member, which it was alleged were not in accordance with council procedures, resulting in the unlawful suspension of the Complainant from her role as Deputy Clerk among other decisions, which were outside the powers of the Subject Member, and in so doing and through other actions around the decision, breached the Code by not promoting or maintaining high standards of conduct.

The Subject Member contended that they acted in accordance with procedure following advice during a difficult situation.

The Sub-Committee noted that the allegations involved breaches of the standing orders of the Town Council. It noted that whilst a breach of those standing orders was not in of itself a breach of a Code of Conduct, it had to consider if the specific allegations of breaches of those orders in the alleged circumstances could, if proven, rise to the level of such a breach under the general principle of not promoting high standards of conduct.

From the submissions it was apparent there had been a period of organisational difficulty for the Town Council where both the clerk and deputy clerk were suspended under grievance procedures. The Subject Member was one of a number of Members subject to complaint for the same incident, due to varying alleged involvement.

The Sub-Committee was not persuaded, on the basis of the submissions, that the alleged behaviour, and alleged breaches of standing orders, in this instance, if proven, were capable of rising to the level of a breach of the Code of Conduct.

In particular, the Sub-Committee noted that if there were errors or unlawful actions taken by the Council by virtue of the Subject Member's actions in conjunction with the other Members subject to complaint, the grievance and unfair dismissal procedures were a more appropriate place for those decisions by the Council to be explored and determined. It did not consider any of the further allegations to rise to the level capable of being a breach.

It was therefore resolved to take no further action in respect of the complaint and did not consider any of the other related complaints against other Members raised particular issues or allegations which would result in a different determination.

Accordingly, it was,

Resolved:

In accordance with the approved arrangements for resolving standards

complaints adopted by Council on 9 July 2019, which came into effect on 1 January 2020 and after hearing from the Independent Person, the Assessment Sub-Committee determined to take no further action in respect of the complaint.

(Duration of meeting: 10.00 - 11.00 am)

The Officer who has produced these minutes is Kieran Elliott of Democratic Services, direct line 01225 718504, e-mail kieran.elliott@wiltshire.gov.uk

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